

Appln No. 09/963,872

Amdt date May 4, 2005

Reply to Office action of February 4, 2005

**REMARKS/ARGUMENTS**

In the Office action dated February 4, 2005, the examiner rejected all of pending claims 1-7, 9, 11-17, 19, 21-27 and 29 under 35 U.S.C. § 103(a) as allegedly obvious over Wang (U.S. Patent No. 5,733,685) in view of Amatucci, et al. (U.S. Patent No. 5,705,291) and further in view of either Kweon, et al. (U.S. Patent No. 6,372,385) ("Kweon '385"), Kweon, et al. (U.S. Patent No. 6,531,220) ("Kweon '220") or Kweon, et al. (U.S. Patent No. 6,653,021) ("Kweon '021"). However, applicants note that Kweon '385, Kweon '220 and Kweon '021 qualify as prior art only under 35 U.S.C. § 102(e). The present application and Kweon '385, Kweon '220 and Kweon '021 were commonly owned by, or were subject to an obligation of an assignment to Samsung SDI Co., Ltd. at the time the invention embodied in the present application was made. Therefore, Kweon '385, Kweon '220 and Kweon '021 are disqualified as prior art against the present application for purposes of a 35 U.S.C. § 103 rejection. (See M.P.E.P. §§ 706.02(1)(1) and 706.02(1)(2)).

Furthermore, neither Wang nor Amatucci disclose the use of an alkoxide of a coating-element source to prepare a positive active material for a rechargeable lithium battery, as currently claimed. Because Kweon '385, Kweon '220 and Kweon '021 are disqualified as prior art for the examiner's 35 U.S.C. § 103 rejection, and because neither Wang nor Amatucci disclose the claimed subject matter, all of pending claims 1-7, 9, 11-17, 19, 21-27 and 29 are allowable over Wang, Amatucci, Kweon '385, Kweon '220 and Kweon '021.

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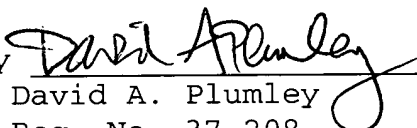
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The examiner also rejected claims 1-7, 9, 11-17, 19, 21-27 and 29 under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 4-7 of Kweon '021, claims 1-6 of Kweon '385 and claims 4-6 of Kweon '220. In that regard, applicants submit herewith a Terminal Disclaimer pursuant to 37 C.F.R. 1.321(c).

Claims 1-7, 9, 11-17, 19, 21-27 and 29 remain pending in this application. Applicants submit that all of pending claims 1-7, 9, 11-17, 19, 21-27 and 29 are in condition for allowance. Applicants therefore respectfully request a timely indication of allowance. However, if there are any remaining issues that can best be addressed by telephone, applicants ask the examiner to contact applicants' counsel at the number below.

Respectfully submitted,

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